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FEB 27 2009

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REPLY TO OFFICE ACTION
APPLICATION NO. 10/506800

TO THE UNITED STATES PATENT
AND TRADEMARK OFFICE .
COMMISSIONER FOR PATENTS .
EXAMINER JOHN RICCI .

In response to the office action summary dated February 3rd, 2009, sent to the applicant, in order to elect one out of the three inventions set forth on the original application, and state the claims thereof, pursuant to restriction under 35 USC 121 and 372, notwithstanding the eventual rejoinder due to the traverse conditions, and also, notwithstanding that the accessory and method to develop such invention came along with the product itself, and in order to proceed states that claims the invention of the inflatable toy, with its described shape, that it is provided by the manner in which it is made, on the accessory meant for it, and use of such toy, that can be bounced as well as thrown in different manners according to its nature and the imagination of the one using it, and that it is the knowledge of this inventor that such accessory and method to make the toy it is not yet used for anything else or build another product, in order to comply with such requirement.

Therefore, having claimed that the actual purpose of the petition of patent is the inflatable toy or balloon, with the form of a rocket or pencil, which is how children that see it, or play with it, recognize it, and the claims to it are that such rocket shape allows it to fly, when bounced, hit or thrown into the air to glide, fly or float and even spin, when the user knows and develops practice on doing it, being that such is the experience and the motives to develop his product, that thanks to its shape can make things that no other toy can do actually, and that are the claims that refer to this rocket shape inflatable, that can be inflated just by blowing air out of the mouth at its open end and secured afterwards just by twisting, getting to have such twist clogged by it self, being that the twist is long enough to be able to wrap it two or three times concentrically, and end up on passing the left portion underneath the obtained round shape portions with the concentric turns, allowing, also, a particular bouncing sound, which are the particularities obtained on how this product is produced, being that there are no yet any other way on doing it, even considering the simplicity of the process,

Yet, there is a balloon made out of tubular plastic, although lacks the particular conical end that this product has, and being made of elastic material, requires some other ways to have it tight or wrapped, then can not hold good air pressure to make it rigid, as this product can, particularly because it is made of non-elastic materials that allow the sealing or tapping or a rectangular piece of strong material, that, after all, provides it with a more firm form, that given its aerodynamics, get supported for a while by the air, specially when the inertia of an impulse makes it slide on, which is not a particularity of another inflatable toy actually on use.

Although the form and particular shape of this product it is not only of any other existing product on the market, but the way, and where it is made constitute also a novelty being that there is not know yet another

device , accessory or machine , that has the form and function of the artifact where this inflatable is made , in other words , even though it could be realized that there could be any another way to make this product , and even that there might be another process to produce it , yet it has not being made public , or allow anyone to produce anything similar , conceiving the idea that this product is simple on its conception and manufacturing , that makes it different and exclusive , in other words , there has not being yet any other person that develops this product , with or without the device or process with which is made or with or without the method how it is made , therefore , and being that there is none who has or had made it the product is new and therefore the form in which gets to be made , being that there are no machines build to make it , since the one described by the applicant was developed by the applicant out of nowhere and having only the idea and need to make this rocket balloon , as well as the method to get it , that it does not comes from any instructive or previous idea , but just from the need to get joint the material with which was meant to make this balloon that in fact is similar to such with which other balloons are made , but not like this kind or shape any even less the method to get it done which is not of any known kind , thus , even though it is the balloon what it is desired to get patented , the way on how it is made it also gets to be particular , and it requires to be protected for , at least for the period of time that the law has for patents to discourage all those that want to copy it , get discourage or at least recognize rights to this inventor , being that neither the form nor the method have being developed by any other nowadays , along with the product which it is so distinct and notseeing .

Therefore , having elected that , it is the inflatable toy , the one that it is desired to patent , and adding the claims , that make it different and unique , particularly obtained from and by the way in which it is made , trying to point out that , even though , it looks like there could be some other ways to make it , or any other use to give to the device with which it is made , there would not be any accessory on the market , to make it , and not any process known that would result on this kind of product , thus , this product and the way and the device with which it is made should be protected , because at least until now there is no other way yet to make it , nor other method to obtain the results with which this product is made , and , if not protected , as a whole , afterwards , anyone using another method , based on the same idea , or with another device , or machine , or accessory , could defy the originality of this product , that yet has no preccdent , or anything alike , that could impede the protection that the law gives to new products .

Thankfully

Flavio Valerio Marin Hernandez

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